

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2007-1711-PWS-E TCEQ ID: RN102693579 CASE NO.: 34791  
RESPONDENT NAME: DAVID FENOGLIO DBA SUNSET WATER SYSTEM**

|   |   |  |
|---|---|--|
| <b>ORDER TYPE:</b>  |   |  |
| <input type="checkbox"/> 1660 AGREED ORDER  | <input checked="" type="checkbox"/> FINDINGS AGREED ORDER   | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING       |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER   | <input type="checkbox"/> SHUTDOWN ORDER                     | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER  | <input type="checkbox"/> EMERGENCY ORDER                    |  |
| <b>CASE TYPE:</b>   |   |  |
| <input type="checkbox"/> AIR  | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE              |
| <input checked="" type="checkbox"/> PUBLIC WATER SUPPLY   | <input type="checkbox"/> PETROLEUM STORAGE TANKS            | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION                  |
| <input type="checkbox"/> WATER QUALITY  | <input type="checkbox"/> SEWAGE SLUDGE                      | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL               |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE  | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> corner of West Front Street and Cottage Grove Avenue, near Railroad Tracks, 11243 Highway 59N, Montague, Montague County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired July 20, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney:</b> Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846<br/>                 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717<br/> <b>TCEQ Regional Contact:</b> Mr. Cliff Moore, Abilene Regional Office, MC R-3, (325) 698-6115<br/> <b>Respondent:</b> Mr. David A. Fenoglio, Owner, Sunset Water System, P.O. Box 418, Montague, Texas 76251<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p> |   |  |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS   | CORRECTIVE ACTIONS TAKEN/REQUIRED   |
|---|--|---|
| <p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b><br/>None</p> <p><b>Dates of Investigation Relating to this Case:</b><br/>August 27, 2007</p> <p><b>Date of NOE Relating to this Case:</b><br/>September 21, 2007</p> <p><b>Background Facts:</b><br/>The EDRP was filed on March 5, 2008. A Default Order was scheduled for the October 22, 2008, agenda. Prior to agenda the Respondent filed an answer. The case was referred to SOAH. The Respondent signed the Agreed Order on June 2, 2009.</p> <p><b>Current Compliance Status:</b><br/>Not yet in compliance. The Respondent does not owe past-due administrative penalties for the previous Commission order (2003-0038-PWS-E).</p> <p><b>PWS:</b></p> <p>1. Failed to keep on file and make available for Commission review records of annual tank inspections [30 TEX. ADMIN. CODE § 290.46(f)(2) and TCEQ Order Docket No. 2003-0038-PWS-E, Ordering Provision 3.e].</p> <p>2. Failed to keep on file and make available for Commission review, copies of well completion data records [30 TEX. ADMIN. CODE § 290.46(n)(3) and TCEQ Order Docket No. 2003-0038-PWS-E, Ordering Provision 3.f].</p> <p>3. Failed to provide a total storage capacity of 200 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii), TCEQ Order Docket No. 2003-0038-PWS-E, Ordering Provision 5.b., and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>4. Failed to provide 30 inch access openings on the three ground storage tanks [30 TEX. ADMIN. CODE § 290.43(c)(2)].</p> | <p><b>Total Assessed:</b> \$10,210</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order<br/> <input type="checkbox"/> Financial Inability to Pay<br/> <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b><br/>\$585/\$9625</p> <p>The Respondent paid \$585 of the administrative penalty. The remaining amount of \$9,625 shall be payable in 35 monthly payments of \$275 each.</p> <p><b>Site Compliance History Classification</b><br/>N/A</p> <p><b>Person Compliance History Classification</b><br/>N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b><br/>Indifference to legal duty for violating a prior Commission order.</p> | <p><b>Ordering Provisions:</b><br/>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 30 days:</p> <p>a. Submit a copy of annual tank inspections for the three ground storage tanks and the pressure tank;</p> <p>b. Inspect the interior of all the pressure tanks; and</p> <p>c. Compile and begin maintaining a plant operation manual.</p> <p>2. Within 45 days, submit written documentation to demonstrate compliance with Ordering Provisions 1.a. through 1.c.</p> <p>3. Within 60 days:</p> <p>a. Provide a 30 inch access hatch for all three ground storage tanks in accordance with American Water Works Association standards; and</p> <p>b. Submit a copy of the well data for Well Nos. 1 and 3 that shows data relating to sealing information, including for pressure cementing, in the form of a cement bonding log or other documentation adequate to assure complete sealing of the annular space between the casing and the drill hole.</p> <p>4. Within 75 days, submit written documentation to demonstrate compliance with the Ordering Provisions 3.a. and 3.b.</p> <p>5. Within 90 days:</p> <p>a. Provide a storage tank capacity of 200 gallons per connection; and</p> <p>b. Plug Well Nos. 2 and 3 or submit test results for approval showing that the wells are in a non-deteriorated condition.</p> <p>6. Within 105 days, submit written certification to demonstrate compliance with the Ordering Provisions 5.a. and 5.b.</p> |

5. Failed to inspect the interior of the pressure tanks that are provided with an inspection port at least once every five years [30 TEX. ADMIN. CODE § 290.46(m)(1)(B)].

6. Failed to maintain a thorough and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)].

7. Failed to plug Well No. 2 and No. 3 or to submit test results proving that the wells are in a non-deteriorated condition [30 TEX. ADMIN. CODE § 290.46(u) and TCEQ Order Docket No. 2003-0038-PWS-E, Ordering Provision 5.c].



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

**TCEQ**

|       |          |             |           |             |         |             |
|-------|----------|-------------|-----------|-------------|---------|-------------|
| DATES | Assigned | 24-Sep-2007 | Screening | 12-Oct-2007 | EPA Due | 23-May-2008 |
|       | PCW      | 20-Oct-2007 |           |             |         |             |

|  |  |                    |       |
|--|--|--------------------|-------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |  |                    |       |
| Respondent                             | David Fenoglio dba Sunset Water System |                    |       |
| Reg. Ent. Ref. No.                     | RN102693579                            |                    |       |
| Facility/Site Region                   | 3-Abilene                              | Major/Minor Source | Minor |

|                         |                     |                   |                   |
|-------------------------|---------------------|-------------------|-------------------|
| <b>CASE INFORMATION</b> |                     |                   |                   |
| Enf./Case ID No.        | 34791               | No. of Violations | 7                 |
| Docket No.              | 2007-1711-PWS-E     | Order Type        | Findings          |
| Media Program(s)        | Public Water Supply | Enf. Coordinator  | Tel Croston       |
| Multi-Media             |                     | EC's Team         | EnforcementTeam 2 |
| Admin. Penalty \$       | Limit Minimum \$50  | Maximum \$1,000   |                   |

## Penalty Calculation Section

|   |                   |         |
|---|-------------------|---------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <i>Subtotal 1</i> | \$7,700 |
|---|-------------------|---------|

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

|                    |                 |                                |         |
|--------------------|-----------------|--------------------------------|---------|
| Compliance History | 30% Enhancement | <i>Subtotals 2, 3, &amp; 7</i> | \$2,310 |
|--------------------|-----------------|--------------------------------|---------|

Notes: The penalty is enhanced due to one Agreed Enforcement Order that does not contain a denial of liability and one NOV with the same or similar violations in the past five years.

|             |    |                |                   |     |
|-------------|----|----------------|-------------------|-----|
| Culpability | No | 0% Enhancement | <i>Subtotal 4</i> | \$0 |
|-------------|----|----------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

|                             |              |                   |     |
|-----------------------------|--------------|-------------------|-----|
| Good Faith Effort to Comply | 0% Reduction | <i>Subtotal 5</i> | \$0 |
|-----------------------------|--------------|-------------------|-----|

Before NOV    NOV to EDPRP/Settlement Offer

|               |   |               |
|---------------|---|---------------|
| Extraordinary |   |               |
| Ordinary      |   |               |
| N/A           | X | (mark with x) |

Notes: The Respondent does not meet the good faith criteria.

|                            |         |                                   |                   |     |
|----------------------------|---------|-----------------------------------|-------------------|-----|
| Total EB Amounts           | \$1,665 | 0% Enhancement*                   | <i>Subtotal 6</i> | \$0 |
| Approx. Cost of Compliance | \$5,150 | *Capped at the Total EB \$ Amount |                   |     |

|                             |                       |          |
|-----------------------------|-----------------------|----------|
| <b>SUM OF SUBTOTALS 1-7</b> | <i>Final Subtotal</i> | \$10,010 |
|-----------------------------|-----------------------|----------|

|   |    |                   |       |
|---|----|-------------------|-------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 2% | <i>Adjustment</i> | \$200 |
|---|----|-------------------|-------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance.

|                             |          |
|-----------------------------|----------|
| <i>Final Penalty Amount</i> | \$10,210 |
|-----------------------------|----------|

|                                   |                               |          |
|-----------------------------------|-------------------------------|----------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <i>Final Assessed Penalty</i> | \$10,210 |
|-----------------------------------|-------------------------------|----------|

|                 |              |                   |     |
|-----------------|--------------|-------------------|-----|
| <b>DEFERRAL</b> | 0% Reduction | <i>Adjustment</i> | \$0 |
|-----------------|--------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

|                        |          |
|------------------------|----------|
| <b>PAYABLE PENALTY</b> | \$10,210 |
|------------------------|----------|

Screening Date 12-Oct-2007

Docket No. 2007-1711-PWS-E

PCW

Respondent David Fenoglio dba Sunset Water System

Policy Revision 2 (September 2002)

Case ID No. 34791

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102693579

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  | 1                 | 5%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 0                 | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 1                 | 25%     |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)                                       | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty is enhanced due to one Agreed Enforcement Order that does not contain a denial of liability and one NOV with the same or similar violations in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

|  |  |            |
|--|--|------------|
| <b>Screening Date</b> 12-Oct-2007                        | <b>Docket No.</b> 2007-1711-PWS-E  | <b>PCW</b> |
| <b>Respondent</b> David Fenoglio dba Sunset Water System | <i>Policy Revision 2 (September 2002)</i>  |            |
| <b>Case ID No.</b> 34791                                 | <i>PCW Revision September 19, 2007</i>   |            |
| <b>Reg. Ent. Reference No.</b> RN102693579               |  |            |
| <b>Media [Statute]</b> Public Water Supply               |  |            |
| <b>Enf. Coordinator</b> Tel Croston                      |  |            |
| <b>Violation Number</b>                                  | 1  |            |
| <b>Rule Cite(s)</b>                                      | 30 Tex. Admin. Code § 290.46(f)(2) and TCEQ Order Docket No. 2003-0038-PWS-E, Ordering Provision 3.e.  |            |
| <b>Violation Description</b>                             | Failed to keep on file and make available for Commission review records of annual tank inspections. Specifically, on the date of the investigation the records for the three ground storage tanks and the pressure tank were not available for review. |            |
| <b>Base Penalty</b>                                      |  | \$1,000    |

**>> Environmental, Property and Human Health Matrix**

|    |                  |                          |                          |  |                          |
|----|------------------|--------------------------|--------------------------|--|--------------------------|
| OR | <b>Harm</b>      |                          |                          |  |                          |
|    | <b>Release</b>   | Major                    | Moderate                 |  | Minor                    |
|    | <b>Actual</b>    | <input type="checkbox"/> | <input type="checkbox"/> |  | <input type="checkbox"/> |
|    | <b>Potential</b> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>                       |                          |
|    |                  |                          |                          | <b>Percent</b> <input type="text" value="0%"/> |                          |

**>> Programmatic Matrix**

|                     |   |       |                          |   |
|---------------------|---|-------|--------------------------|---|
|                     | <b>Falsification</b>                                |       |                          |   |
|                     |   | Major | Moderate                 |   |
|                     | <input type="checkbox"/>                            | x     | <input type="checkbox"/> | <input type="checkbox"/>                        |
|                     |   |       |                          | <b>Percent</b> <input type="text" value="10%"/> |
| <b>Matrix Notes</b> | Failed to comply with 100% of the rule requirement. |       |                          |   |

**Adjustment**

**Violation Events**

Number of Violation Events        Number of violation days

|                                |            |                          |
|--------------------------------|------------|--------------------------|
| <i>mark only one with an x</i> | daily      | <input type="checkbox"/> |
|                                | monthly    | <input type="checkbox"/> |
|                                | quarterly  | <input type="checkbox"/> |
|                                | semiannual | <input type="checkbox"/> |
|                                | annual     | <input type="checkbox"/> |
| single event                   | x          |                          |

**Violation Base Penalty**

Four single events are recommended (one for each tank).

**Economic Benefit (EB) for this violation      Statutory Limit Test**

Estimated EB Amount       Violation Final Penalty Total

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent:** David Fenoglio dba Sunset Water System

**Case ID No.:** 34791

**Reg. Ent. Reference No.:** RN102693579

**Media:** Public Water Supply

**Violation No.:** 1

|                  |                       |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

**Delayed Costs**

|                          |       |             |             |     |      |     |      |
|--------------------------|-------|-------------|-------------|-----|------|-----|------|
| Equipment                |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Buildings                |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Other (as needed)        |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Engineering/construction |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Land                     |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Record Keeping System    | \$500 | 30-Dec-2005 | 12-Mar-2008 | 2.2 | \$55 | n/a | \$55 |
| Training/Sampling        |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Remediation/Disposal     |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Permit Costs             |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Other (as needed)        |       |             |             | 0.0 | \$0  | n/a | \$0  |

Notes for DELAYED costs

Delayed costs include the amount necessary to compile and maintain a system of record keeping, calculated from the effective date of the Commission Order to the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$55

|  |  |            |
|--|--|------------|
| <b>Screening Date</b> 12-Oct-2007                        | <b>Docket No.</b> 2007-1711-PWS-E  | <b>PCW</b> |
| <b>Respondent</b> David Fenoglio dba Sunset Water System | <i>Policy Revision 2 (September 2002)</i>  |            |
| <b>Case ID No.</b> 34791                                 | <i>PCW Revision September 19, 2007</i>   |            |
| <b>Reg. Ent. Reference No.</b> RN102693579               |  |            |
| <b>Media [Statute]</b> Public Water Supply               |  |            |
| <b>Enf. Coordinator</b> Tel Croston                      |  |            |
| <b>Violation Number</b>                                  | 2  |            |
| <b>Rule Cite(s)</b>                                      | 30 Tex. Admin. Code § 290.46(n)(3) and TCEQ Order Docket No. 2003-0038-PWS-E, Ordering Provision 3.f.  |            |
| <b>Violation Description</b>                             | Failed to keep on file and make available for Commission review, copies of well completion data records. Specifically, at the time of the investigation, well completion data for Well No. 1 and No. 3 did not include a cement bonding log or other documentation adequate to assure complete sealing of the annular space between the casing and the drill hole. |            |
| <b>Base Penalty</b>                                      |  | \$1,000    |

**>> Environmental, Property and Human Health Matrix**

|    |                  |       |          |                |       |
|----|------------------|-------|----------|----------------|-------|
| OR | <b>Harm</b>      |       |          |                |       |
|    |                  | Major | Moderate |                | Minor |
|    | <b>Release</b>   |       |          |                |       |
|    | <b>Actual</b>    |       |          | <b>Percent</b> |       |
|    | <b>Potential</b> |       |          | 0%             |       |

**>> Programmatic Matrix**

|                   |                      |   |          |       |       |
|-------------------|----------------------|---|----------|-------|-------|
|                   | <b>Falsification</b> |   |          |       |       |
|                   |                      | Major   | Moderate |       | Minor |
|                   |                      | x   |          |       |       |
|                   | <b>Matrix Notes</b>  | Failed to comply with 100% of the rule requirement. |          |       |       |
| <b>Adjustment</b> |                      |   |          | \$900 |       |

\$100

**Violation Events**

Number of Violation Events        Number of violation days

|  |              |   |
|--|--------------|---|
|  | daily        |   |
|  | monthly      | x |
|  | quarterly    |   |
|  | semiannual   |   |
|  | annual       |   |
|  | single event |   |

*mark only one with an x*

**Violation Base Penalty**

One single event is recommended.

|   |   |
|---|---|
| <b>Economic Benefit (EB) for this violation</b>   | <b>Statutory Limit Test</b>   |
| <b>Estimated EB Amount</b> <input style="width: 150px;" type="text" value="\$22"/>  | <b>Violation Final Penalty Total</b> <input style="width: 100px;" type="text" value="\$133"/> |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width: 100px;" type="text" value="\$133"/> |   |

### Economic Benefit Worksheet

**Respondent** David Fenoglio dba Sunset Water System  
**Case ID No.** 34791

**Reg. Ent. Reference No.** RN102693579

**Media** Public Water Supply  
**Violation No.** 2

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description               | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> |           |               |            |     |                |               |           |

**Delayed Costs**

|                          |       |             |             |     |      |     |      |
|--------------------------|-------|-------------|-------------|-----|------|-----|------|
| Equipment                |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Buildings                |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Other (as needed)        |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Engineering/construction |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Land                     |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Record Keeping System    | \$200 | 30-Dec-2005 | 12-Mar-2008 | 2.2 | \$22 | n/a | \$22 |
| Training/Sampling        |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Remediation/Disposal     |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Permit Costs             |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Other (as needed)        |       |             |             | 0.0 | \$0  | n/a | \$0  |

**Notes for DELAYED costs** Delayed costs include the amount necessary to acquire and maintain adequate documentation of the wells sealing information, calculated from the effective date of the Commission Order to the estimated date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

**Notes for AVOIDED costs**

|                                   |       |              |      |
|-----------------------------------|-------|--------------|------|
| <b>Approx. Cost of Compliance</b> | \$200 | <b>TOTAL</b> | \$22 |
|-----------------------------------|-------|--------------|------|

|  |  |                                      |
|--|--|--------------------------------------|
| <b>Screening Date</b> 12-Oct-2007                        | <b>Docket No.</b> 2007-1711-PWS-E  | <b>PCW</b>                           |
| <b>Respondent</b> David Fenoglio dba Sunset Water System | <i>Policy Revision 2 (September 2002)</i>  |                                      |
| <b>Case ID No.</b> 34791                                 | <i>PCW Revision September 19, 2007</i>   |                                      |
| <b>Reg. Ent. Reference No.</b> RN102693579               |  |                                      |
| <b>Media [Statute]</b> Public Water Supply               |  |                                      |
| <b>Enf. Coordinator</b> Tel Croston                      |  |                                      |
| <b>Violation Number</b> <input type="text" value="3"/>   |  |                                      |
| <b>Rule Cite(s)</b>                                      | 30 Tex. Admin. Code § 290.45(b)(1)(C)(ii) and TCEQ Order Docket No. 2003-0038-PWS E, Ordering Provision 5.b. and Tex. Health and Safety Code § 341.0315(c)   |                                      |
| <b>Violation Description</b>                             | Failed to provide a total storage capacity of 200 gallons per connection. Specifically, a system with 152 connections is required to provide a total storage capacity of 30,400 gallons. At the time of the investigation, the system provided a total storage capacity of 26,400 gallons, a 13% deficiency. |                                      |
| <b>Base Penalty</b>                                      |  | <input type="text" value="\$1,000"/> |

**>> Environmental, Property and Human Health Matrix**

|           |                |                      |                                     |                      |   |
|-----------|----------------|----------------------|-------------------------------------|----------------------|---|
| <b>OR</b> | <b>Harm</b>    |                      |                                     |                      |   |
|           | <b>Release</b> | <b>Major</b>         | <b>Moderate</b>                     | <b>Minor</b>         |   |
|           | Actual         | <input type="text"/> | <input type="text"/>                | <input type="text"/> |   |
|           | Potential      | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | <b>Percent</b> <input type="text" value="10%"/> |

**>> Programmatic Matrix**

|  |                      |                                 |                      |  |  |
|--|----------------------|---------------------------------|----------------------|--|--|
|  | <b>Falsification</b> |                                 |                      |  |  |
|  | <b>Major</b>         | <b>Moderate</b>                 | <b>Minor</b>         |  |  |
|  | <input type="text"/> | <input type="text"/>            | <input type="text"/> |  |  |
|  | <b>Percent</b>       | <input type="text" value="0%"/> |                      |  |  |

**Matrix Notes**

Without sufficient pressure tank capacity, customers of the water system could experience water outages and the system's ability to provide a safe and adequate supply of water to the customers could be impaired.

**Adjustment**

**Violation Events**

|   |                                  |                          |
|---|----------------------------------|--------------------------|
| Number of Violation Events <input type="text" value="8"/> | <input type="text" value="651"/> | Number of violation days |
|---|----------------------------------|--------------------------|

|                                |              |                                     |  |
|--------------------------------|--------------|-------------------------------------|--|
| <i>mark only one with an x</i> | daily        | <input type="text"/>                |  |
|                                | monthly      | <input type="text"/>                |  |
|                                | quarterly    | <input checked="" type="checkbox"/> |  |
|                                | semiannual   | <input type="text"/>                |  |
|                                | annual       | <input type="text"/>                |  |
|                                | single event | <input type="text"/>                |  |

**Violation Base Penalty**

Eight quarterly events are recommended from the effective date of TCEQ Order Docket No. 2003-0038-PWS-E, December 30, 2005, to the date of screening, October 12, 2007.

|   |  |
|---|--|
| <b>Economic Benefit (EB) for this violation</b>   | <b>Statutory Limit Test</b>  |
| Estimated EB Amount <input type="text" value="\$160"/>  | Violation Final Penalty Total <input type="text" value="\$1,061"/> |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,061"/> |  |

## Economic Benefit Worksheet

**Respondent** David Fenoglio dba Sunset Water System

**Case ID No.** 34791

**Reg. Ent. Reference No.** RN102693579

**Media** Public Water Supply

**Violation No.** 3

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description               | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> |           |               |            |     |                |               |           |

### Delayed Costs

|                          |         |             |             |     |     |       |       |
|--------------------------|---------|-------------|-------------|-----|-----|-------|-------|
| Equipment                | \$1,000 | 30-Dec-2005 | 12-Apr-2008 | 2.3 | \$8 | \$152 | \$160 |
| Buildings                |         |             |             | 0.0 | \$0 | \$0   | \$0   |
| Other (as needed)        |         |             |             | 0.0 | \$0 | \$0   | \$0   |
| Engineering/construction |         |             |             | 0.0 | \$0 | \$0   | \$0   |
| Land                     |         |             |             | 0.0 | \$0 | n/a   | \$0   |
| Record Keeping System    |         |             |             | 0.0 | \$0 | n/a   | \$0   |
| Training/Sampling        |         |             |             | 0.0 | \$0 | n/a   | \$0   |
| Remediation/Disposal     |         |             |             | 0.0 | \$0 | n/a   | \$0   |
| Permit Costs             |         |             |             | 0.0 | \$0 | n/a   | \$0   |
| Other (as needed)        |         |             |             | 0.0 | \$0 | n/a   | \$0   |

Notes for DELAYED costs

The delayed costs include the amount to provide a minimum storage capacity of 200 gallons per connection, calculated from the effective date of the Commission Order to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$160

|  |  |            |
|--|--|------------|
| <b>Screening Date</b> 12-Oct-2007                        | <b>Docket No.</b> 2007-1711-PWS-E  | <b>PCW</b> |
| <b>Respondent</b> David Fenoglio dba Sunset Water System | <i>Policy Revision 2 (September 2002)</i>  |            |
| <b>Case ID No.</b> 34791                                 | <i>PCW Revision September 19, 2007</i>   |            |
| <b>Reg. Ent. Reference No.</b> RN102693579               |  |            |
| <b>Media [Statute]</b> Public Water Supply               |  |            |
| <b>Enf. Coordinator</b> Tel Croston                      |  |            |
| <b>Violation Number</b>                                  | 4  |            |
| <b>Rule Cite(s)</b>                                      | 30 Tex. Admin. Code § 290.43(c)(2)   |            |
| <b>Violation Description</b>                             | Failed to provide 30 inch access openings on the three ground storage tanks. Specifically, at the time of the investigation it was documented that the access opening of all three ground storage tanks was less than 30 inches. |            |
| <b>Base Penalty</b>                                      |  | \$1,000    |

**>> Environmental, Property and Human Health Matrix**

|           |                |       |          |   |       |
|-----------|----------------|-------|----------|---|-------|
| <b>OR</b> | <b>Harm</b>    |       |          |   |       |
|           |                | Major | Moderate |   | Minor |
|           | <b>Release</b> |       |          |   |       |
|           | Actual         |       |          | <b>Percent</b> <input style="width:50px;" type="text" value="10%"/> |       |
|           | Potential      | x     |          |   |       |

**>> Programmatic Matrix**

|  |                      |       |          |       |  |
|--|----------------------|-------|----------|-------|--|
|  |                      | Major | Moderate | Minor |  |
|  | <b>Falsification</b> |       |          |       |  |
|  | Actual               |       |          |       | <b>Percent</b> <input style="width:50px;" type="text" value="0%"/> |
|  | Potential            |       |          |       |  |

**Matrix Notes**  
Failure to provide sufficient access to the tanks interior could result in non-detection of a tank defect causing loss of tank integrity and customers of the water supply could be exposed to significant amounts of contamination which would not exceed levels that are protective of human health.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

|                                |              |   |
|--------------------------------|--------------|---|
| <i>mark only one with an x</i> | daily        |   |
|                                | monthly      |   |
|                                | quarterly    | x |
|                                | semiannual   |   |
|                                | annual       |   |
|                                | single event |   |

**Violation Base Penalty**

Three quarterly events are recommended (one quarter for each tank) from the date of the investigation, August 27, 2007, to the date of screening, October 12, 2007.

|   |   |
|---|---|
| <b>Economic Benefit (EB) for this violation</b>   | <b>Statutory Limit Test</b>   |
| <b>Estimated EB Amount</b> <input style="width:50px;" type="text" value="\$33"/>  | <b>Violation Final Penalty Total</b> <input style="width:50px;" type="text" value="\$398"/> |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width:50px;" type="text" value="\$398"/> |   |

## Economic Benefit Worksheet

**Respondent** David Fenoglio dba Sunset Water System

**Case ID No.** 34791

**Reg. Ent. Reference No.** RN102693579

**Media** Public Water Supply

**Violation No.** 4

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description | Item Cost<br><small>No commas or \$</small> | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|

**Delayed Costs**

|                          |       |             |             |     |     |      |      |
|--------------------------|-------|-------------|-------------|-----|-----|------|------|
| Equipment                |       |             |             | 0.0 | \$0 | \$0  | \$0  |
| Buildings                |       |             |             | 0.0 | \$0 | \$0  | \$0  |
| Other (as needed)        |       |             |             | 0.0 | \$0 | \$0  | \$0  |
| Engineering/construction | \$750 | 27-Aug-2007 | 12-Apr-2008 | 0.6 | \$2 | \$31 | \$33 |
| Land                     |       |             |             | 0.0 | \$0 | n/a  | \$0  |
| Record Keeping System    |       |             |             | 0.0 | \$0 | n/a  | \$0  |
| Training/Sampling        |       |             |             | 0.0 | \$0 | n/a  | \$0  |
| Remediation/Disposal     |       |             |             | 0.0 | \$0 | n/a  | \$0  |
| Permit Costs             |       |             |             | 0.0 | \$0 | n/a  | \$0  |
| Other (as needed)        |       |             |             | 0.0 | \$0 | n/a  | \$0  |

**Notes for DELAYED costs**  
 Delayed costs include the estimated amount to replace the hatches on all three tanks, calculated from the date of the investigation to the estimated date of compliance.

**Avoided Costs**      **ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

**Notes for AVOIDED costs**

|                                   |       |              |      |
|-----------------------------------|-------|--------------|------|
| <b>Approx. Cost of Compliance</b> | \$750 | <b>TOTAL</b> | \$33 |
|-----------------------------------|-------|--------------|------|

|  |  |            |
|--|--|------------|
| <b>Screening Date</b> 12-Oct-2007                        | <b>Docket No.</b> 2007-1711-PWS-E  | <b>PCW</b> |
| <b>Respondent</b> David Fenoglio dba Sunset Water System | <i>Policy Revision 2 (September 2002)</i>  |            |
| <b>Case ID No.</b> 34791                                 | <i>PCW Revision September 19, 2007</i>   |            |
| <b>Reg. Ent. Reference No.</b> RN102693579               |  |            |
| <b>Media [Statute]</b> Public Water Supply               |  |            |
| <b>Enf. Coordinator</b> Tel Croston                      |  |            |
| <b>Violation Number</b>                                  | 5  |            |
| <b>Rule Cite(s)</b>                                      | 30 Tex. Admin. Code §290.46(m)(1)(B)   |            |
| <b>Violation Description</b>                             | Failed to inspect the interior of the pressure tanks that are provided with an inspection port at least once every five years. |            |
| <b>Base Penalty</b>                                      |  | \$1,000    |

**>> Environmental, Property and Human Health Matrix**

|    |                |                      |                      |   |                      |
|----|----------------|----------------------|----------------------|---|----------------------|
| OR | <b>Harm</b>    |                      |                      |   |                      |
|    | <b>Release</b> | Major                | Moderate             |   | Minor                |
|    | Actual         | <input type="text"/> | <input type="text"/> |   | <input type="text"/> |
|    | Potential      | x                    | <input type="text"/> | <input type="text"/>                            |                      |
|    |                |                      |                      | <b>Percent</b> <input type="text" value="25%"/> |                      |

**>> Programmatic Matrix**

|                     |  |                      |                      |                      |  |
|---------------------|--|----------------------|----------------------|----------------------|--|
|                     | <b>Falsification</b>   | Major                | Moderate             | Minor                |  |
|                     | <input type="text"/>   | <input type="text"/> | <input type="text"/> | <input type="text"/> |  |
|                     |  |                      |                      |                      | <b>Percent</b> <input type="text" value="0%"/> |
| <b>Matrix Notes</b> | Failure to perform complete inspections on the pressure tanks could result in non-detection of tank defects that could cause loss of tank integrity, and customers of the water supply could be exposed to significant amounts of contaminants that would exceed levels that are protective of human health and environmental receptors. |                      |                      |                      |  |
| <b>Adjustment</b>   |  |                      |                      |                      | \$750  |

**Violation Events**

|   |  |                          |
|---|--|--------------------------|
| Number of Violation Events <input type="text" value="2"/>   | <input type="text" value="365"/>                                 | Number of violation days |
| mark only one with an x<br>daily <input type="text"/><br>monthly <input type="text"/><br>quarterly <input type="text"/><br>semiannual <input type="text"/><br>annual <input type="text"/><br>single event <input checked="" type="checkbox"/> | <b>Violation Base Penalty</b> <input type="text" value="\$500"/> |                          |

Two single events (one per tank) are recommended.

|   |   |
|---|---|
| <b>Economic Benefit (EB) for this violation</b>   | <b>Statutory Limit Test</b>   |
| <b>Estimated EB Amount</b> <input type="text" value="\$1,051"/>                                       | <b>Violation Final Penalty Total</b> <input type="text" value="\$663"/> |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$663"/> |   |

### Economic Benefit Worksheet

**Respondent** David Fenoglio dba Sunset Water System

**Case ID No.** 34791

**Reg. Ent. Reference No.** RN102693579

**Media** Public Water Supply

**Violation No.** 5

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$  |           |               |            |     |                |               |           |

**Delayed Costs**

|                          |  |  |  |     |     |     |     |
|--------------------------|--|--|--|-----|-----|-----|-----|
| Equipment                |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Buildings                |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)        |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Land                     |  |  |  | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System    |  |  |  | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling        |  |  |  | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal     |  |  |  | 0.0 | \$0 | n/a | \$0 |
| Permit Costs             |  |  |  | 0.0 | \$0 | n/a | \$0 |
| Other (as needed)        |  |  |  | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |       |             |             |     |      |         |         |
|-------------------------------|-------|-------------|-------------|-----|------|---------|---------|
| Disposal                      |       |             |             | 0.0 | \$0  | \$0     | \$0     |
| Personnel                     |       |             |             | 0.0 | \$0  | \$0     | \$0     |
| Inspection/Reporting/Sampling | \$200 | 27-Aug-2002 | 27-Aug-2007 | 5.0 | \$50 | \$1,001 | \$1,051 |
| Supplies/equipment            |       |             |             | 0.0 | \$0  | \$0     | \$0     |
| Financial Assurance [2]       |       |             |             | 0.0 | \$0  | \$0     | \$0     |
| ONE-TIME avoided costs [3]    |       |             |             | 0.0 | \$0  | \$0     | \$0     |
| Other (as needed)             |       |             |             | 0.0 | \$0  | \$0     | \$0     |

Notes for AVOIDED costs

The avoided costs includes the amount to conduct an interior inspection of the two pressure tanks at the Facility, calculated five years prior to the investigation date.

Approx. Cost of Compliance

\$200

TOTAL

\$1,051

|  |   |            |
|--|---|------------|
| <b>Screening Date</b> 12-Oct-2007                        | <b>Docket No.</b> 2007-1711-PWS-E   | <b>PCW</b> |
| <b>Respondent</b> David Fenoglio dba Sunset Water System | <i>Policy Revision 2 (September 2002)</i>   |            |
| <b>Case ID No.</b> 34791                                 | <i>PCW Revision September 19, 2007</i>  |            |
| <b>Reg. Ent. Reference No.</b> RN102693579               |   |            |
| <b>Media [Statute]</b> Public Water Supply               |   |            |
| <b>Enf. Coordinator</b> Tel Croston                      |   |            |
| <b>Violation Number</b> <input type="text" value="6"/>   |   |            |
| <b>Rule Cite(s)</b>                                      | 30 Tex. Admin. Code § 290.42(l)   |            |
| <b>Violation Description</b>                             | Failed to maintain a thorough and up-to-date plant operations manual for operator review and reference. |            |
| <b>Base Penalty</b>                                      |   | \$1,000    |

**>> Environmental, Property and Human Health Matrix**

|                  |                |       |          |  |       |
|------------------|----------------|-------|----------|--|-------|
| <b>OR</b>        | <b>Harm</b>    |       |          |  |       |
|                  | <b>Release</b> | Major | Moderate |  | Minor |
|                  | <b>Actual</b>  |       |          |  |       |
| <b>Potential</b> |                |       |          | <b>Percent</b> <input type="text" value="0%"/> |       |

**>> Programmatic Matrix**

|                     |   |       |          |   |       |
|---------------------|---|-------|----------|---|-------|
|                     | <b>Falsification</b>                                |       |          |   |       |
|                     |   | Major | Moderate |   | Minor |
|                     |   | x     |          |   |       |
| <b>Matrix Notes</b> | Failed to comply with 100% of the rule requirement. |       |          | <b>Percent</b> <input type="text" value="10%"/> |       |
| <b>Adjustment</b>   |   |       |          | \$900   |       |

\$100

**Violation Events**

Number of Violation Events   Number of violation days

|                                |            |  |
|--------------------------------|------------|--|
| <i>mark only one with an x</i> | daily      |  |
|                                | monthly    |  |
|                                | quarterly  |  |
|                                | semiannual |  |
|                                | annual     |  |
| single event                   | x          |  |

**Violation Base Penalty**

One single event is recommended.

|   |   |
|---|---|
| <b>Economic Benefit (EB) for this violation</b>   | <b>Statutory Limit Test</b>   |
| <b>Estimated EB Amount</b> <input type="text" value="\$14"/>  | <b>Violation Final Penalty Total</b> <input type="text" value="\$133"/> |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$133"/> |   |

## Economic Benefit Worksheet

**Respondent** David Fenoglio dba Sunset Water System

**Case ID No.** 34791

**Reg. Ent. Reference No.** RN102693579

**Media** Public Water Supply

**Violation No.** 6

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

**Delayed Costs**

|                          |       |             |             |     |      |     |      |
|--------------------------|-------|-------------|-------------|-----|------|-----|------|
| Equipment                |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Buildings                |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Other (as needed)        |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Engineering/construction |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Land                     |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Record Keeping System    | \$500 | 27-Aug-2007 | 12-Mar-2008 | 0.5 | \$14 | n/a | \$14 |
| Training/Sampling        |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Remediation/Disposal     |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Permit Costs             |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Other (as needed)        |       |             |             | 0.0 | \$0  | n/a | \$0  |

Notes for DELAYED costs

The delayed costs include the amount to prepare and maintain a plant operations manual, calculated from the date of the investigation to the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$14

|  |  |                                      |
|--|--|--------------------------------------|
| <b>Screening Date</b> 12-Oct-2007                        | <b>Docket No.</b> 2007-1711-PWS-E  | <b>PCW</b>                           |
| <b>Respondent</b> David Fenoglio dba Sunset Water System | <i>Policy Revision 2 (September 2002)</i>  |                                      |
| <b>Case ID No.</b> 34791                                 | <i>PCW Revision September 19, 2007</i>   |                                      |
| <b>Reg. Ent. Reference No.</b> RN102693579               |  |                                      |
| <b>Media [Statute]</b> Public Water Supply               |  |                                      |
| <b>Enf. Coordinator</b> Tel Croston                      |  |                                      |
| <b>Violation Number</b> <input type="text" value="7"/>   |  |                                      |
| <b>Rule Cite(s)</b>                                      | 30 Tex. Admin. Code § 290.46(u) and TCEQ Commission Order Docket No. 2003-0038-PWS-E, Ordering Provision 5.c.  |                                      |
| <b>Violation Description</b>                             | Failed to plug Well No. 2 and No. 3, or to submit test results proving that the wells are in a non-deteriorated condition. Specifically Well No.2 and No.3 were not in service, but no test results had been submitted for approval to show they were not in a deteriorated condition. |                                      |
| <b>Base Penalty</b>                                      |  | <input type="text" value="\$1,000"/> |

**>> Environmental, Property and Human Health Matrix**

|           |                  |                                     |                          |                          |   |
|-----------|------------------|-------------------------------------|--------------------------|--------------------------|---|
| <b>OR</b> | <b>Harm</b>      |                                     |                          |                          |   |
|           | <b>Release</b>   | Major                               | Moderate                 |                          | Minor   |
|           | <b>Actual</b>    | <input type="text"/>                | <input type="text"/>     |                          | <input type="text"/>                            |
|           | <b>Potential</b> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <b>Percent</b> <input type="text" value="25%"/> |

**>> Programmatic Matrix**

|  |                      |                      |                      |                      |  |
|--|----------------------|----------------------|----------------------|----------------------|--|
|  | Falsification        | Major                | Moderate             | Minor                |  |
|  | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |  |
|  |                      |                      |                      |                      | <b>Percent</b> <input type="text" value="0%"/> |

**Matrix Notes**  
 Failure to plug an abandoned public water supply well, could result in contaminants entering the well and customers of the water supply could be exposed to a significant amount of contaminants that would exceed levels protective of human health.

**Adjustment**

**Violation Events**

|                                |   |                                  |                          |         |                                     |           |                      |            |                      |        |                      |              |                      |  |  |
|--------------------------------|---|----------------------------------|--------------------------|---------|-------------------------------------|-----------|----------------------|------------|----------------------|--------|----------------------|--------------|----------------------|--|--|
|                                | <input type="text" value="22"/>   | <input type="text" value="651"/> | Number of violation days |         |                                     |           |                      |            |                      |        |                      |              |                      |  |  |
| <i>mark only one with an x</i> | <table style="width:100%; border-collapse: collapse;"> <tr><td style="width:50%;">daily</td><td style="width:50%; text-align: center;"><input type="text"/></td></tr> <tr><td>monthly</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> <tr><td>quarterly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table> | daily                            | <input type="text"/>     | monthly | <input checked="" type="checkbox"/> | quarterly | <input type="text"/> | semiannual | <input type="text"/> | annual | <input type="text"/> | single event | <input type="text"/> |  | <b>Violation Base Penalty</b> <input type="text" value="\$5,500"/> |
| daily                          | <input type="text"/>  |                                  |                          |         |                                     |           |                      |            |                      |        |                      |              |                      |  |  |
| monthly                        | <input checked="" type="checkbox"/>   |                                  |                          |         |                                     |           |                      |            |                      |        |                      |              |                      |  |  |
| quarterly                      | <input type="text"/>  |                                  |                          |         |                                     |           |                      |            |                      |        |                      |              |                      |  |  |
| semiannual                     | <input type="text"/>  |                                  |                          |         |                                     |           |                      |            |                      |        |                      |              |                      |  |  |
| annual                         | <input type="text"/>  |                                  |                          |         |                                     |           |                      |            |                      |        |                      |              |                      |  |  |
| single event                   | <input type="text"/>  |                                  |                          |         |                                     |           |                      |            |                      |        |                      |              |                      |  |  |

Twenty-two monthly events are recommended from the effective date of Commission Order 2003-0038 PWS-E, December 30, 2005, to the date of screening, October 12, 2007.

|   |   |
|---|---|
| <b>Economic Benefit (EB) for this violation</b>   | <b>Statutory Limit Test</b>   |
| <b>Estimated EB Amount</b> <input type="text" value="\$331"/>   | <b>Violation Final Penalty Total</b> <input type="text" value="\$7,293"/> |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$7,293"/> |   |

## Economic Benefit Worksheet

**Respondent** David Fenoglio dba Sunset Water System

**Case ID No.** 34791

**Reg. Ent. Reference No.** RN102693579

**Media** Public Water Supply

**Violation No.** 7

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

### Delayed Costs

|                          |         |             |             |     |      |       |       |
|--------------------------|---------|-------------|-------------|-----|------|-------|-------|
| Equipment                |         |             |             | 0.0 | \$0  | \$0   | \$0   |
| Buildings                |         |             |             | 0.0 | \$0  | \$0   | \$0   |
| Other (as needed)        |         |             |             | 0.0 | \$0  | \$0   | \$0   |
| Engineering/construction | \$2,000 | 30-Dec-2005 | 12-May-2008 | 2.4 | \$16 | \$316 | \$331 |
| Land                     |         |             |             | 0.0 | \$0  | n/a   | \$0   |
| Record Keeping System    |         |             |             | 0.0 | \$0  | n/a   | \$0   |
| Training/Sampling        |         |             |             | 0.0 | \$0  | n/a   | \$0   |
| Remediation/Disposal     |         |             |             | 0.0 | \$0  | n/a   | \$0   |
| Permit Costs             |         |             |             | 0.0 | \$0  | n/a   | \$0   |
| Other (as needed)        |         |             |             | 0.0 | \$0  | n/a   | \$0   |

Notes for DELAYED costs

Avoided cost include the amount necessary to plug an abandoned well or return it to a non-deteriorated condition, calculated from the effective date of the Commission Order to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

**TOTAL**

\$331

# Compliance History

|   |   |                     |                 |              |
|---|---|---------------------|-----------------|--------------|
| Customer/Respondent/Owner-Operator:   | CN601361512   | FENOGLIO, DAVID A   | Classification: | Rating:      |
| Regulated Entity:   | RN102693579   | SUNSET WATER SYSTEM | Classification: | Site Rating: |
|   |   |                     |                 |              |
| ID Number(s):   | PUBLIC WATER SYSTEM/SUPPLY  | REGISTRATION        |                 | 1690007      |
|   | PUBLIC WATER SYSTEM/SUPPLY  | REGISTRATION        |                 | 16900004     |
|   | WATER LICENSING   | LICENSE             |                 | 1690007      |
|   | UTILITIES   | REGISTRATION        |                 | 11779        |
| Location:   | Corner of West Front Street and Cottage Grove Avenue,<br>near Railroad Tracks, 11243 Highway 59N, Montague<br>County, Texas |                     |                 |              |
| TCEQ Region:  | REGION-03 - ABILENE   |                     |                 |              |
| Date Compliance History Prepared:   | October 01, 2007  |                     |                 |              |
| Agency Decision Requiring Compliance History:   | Enforcement   |                     |                 |              |
| Compliance Period:  | October 01, 2002 to October 01, 2007  |                     |                 |              |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History |   |                     |                 |              |
| Name:   | <u>Tel Croston</u>  | Phone:              | <u>239-5717</u> |              |

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 12/30/2005

ADMINORDER 2003-0038-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)

Description: Failed to maintain and keep available for review records related to the flushing of dead-end mains.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(v)

Description: Failed to maintain and keep available for review records related to the disinfection of new or repaired lines.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(h)

Description: Failed to keep a supply of calcium hypochlorite on hand at the Facility for use in making repairs, setting meters, and disinfecting new mains prior to placing them in service.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failed to maintain and keep available an accurate and up-to-date distribution map.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)

Description: Failed to post a legible sign at the pump station with the name of the public water supply system and required contact information.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(i)

Description: Failed to ensure that all chemicals used in the treatment of the water supplied by the Facility conformed to ANSI/NSF Standard 60 for direct additives and ANSI/NSF Standard 61 for indirect additives.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description: Failed to maintain a lockable cover on each ground storage tank roof hatch that is locked but capable of being opened for maintenance and inspections.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)[G]

Description: Failed to provide an overflow on the middle ground storage tank.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide an intruder-resistant fence with a lockable gate around the potable water tanks.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failed to secure a sanitary easement from such property owners covering that portion of the land within 150 feet of the wells.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

30 TAC Chapter 290, SubChapter D 290.46(m)(1)

Description: Failed to maintain and keep available for review records related to the annual tank inspections for the three ground storage and pressure tanks as required by 30 TAC 290.46(m)(1).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)[G]

Description: Failed to provide access ladders for each of the three ground storage tanks.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)

Description: Failed to maintain and keep available for review records related to an adequate plumbing ordinance, regulations or service agreements with provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)

Description: Failed to maintain a chlorine residual of 0.2 mg/l in the distribution system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)

Description: Failed to plug abandoned Wells #2 and #3 or to provide test results proving that the wells were in a non-deteriorated condition.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a well capacity of 0.6 gpm per connection.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide 2.0 gpm per connection for service pump capacity.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)

Description: Failed to provide Well #1 with casing extending a minimum of 18 inches above ground level.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failed to provide a concrete sealing block around the well casing of Well #1 and a concrete sealing block for Well #3 that covers a 3 foot radius in all directions.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failed to maintain and keep available for review an up-to-date chemical and bacteriological monitoring plan.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failed to provide a seal on the wellhead and a well casing vent on Well #1.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failed to provide a locked, intruder-resistant fence or a locked, ventilated well house, enclosing Well#1.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(vi)

Description: Failed to maintain and keep available for review the maintenance records for the water system equipment and facilities.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(B)

Description: Failed to test the chlorine residual in the distribution system at least once every seven days.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)

Description: Failed to install electrical wiring on Well #1 secured in a mounted conduit in compliance with local or national electrical codes for wells.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(C)

30 TAC Chapter 290, SubChapter D 290.46(n)(3)

Description: Failed to maintain and keep available for review records related to sealing information, including for pressure cementing, or a cement bonding log or other documentaiton to assure complete sealing of the annular space between the casing and drill hole of Wells #1 & #3.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a total storage capacity of 200 gallons per connection.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)

30 TAC Chapter 290, SubChapter F 290.109(g)(4)

30 TAC Chapter 290, SubChapter F 290.122(c)[G]

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failed to collect and submit routine monthly water samples for bacteriological analysis and failed to provide public notice of the failure to sample for the months of May and August 2002.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(b)(2)

30 TAC Chapter 290, SubChapter F 290.109(f)(3)

30 TAC Chapter 290, SubChapter F 290.122(b)[G]

5A THC Chapter 341, SubChapter A 341.031(a)

Description: Failed to prevent the Facility from exceeding the MCL for total coliform bacteria and failing to provide public notification of the MCL violation for the month of June 2002.

Classification: Major

Citation: 5A THC Chapter 341, SubChapter A 341.049(b)[G]

Rqmt Prov: 2000-0031-PWS-E/O P 2.c. ORDER

Description: Failed to provide an intruder-resistant fence with a lockable gate around the potable water tanks by October 15, 2000.

Classification: Major

Citation: 5A THC Chapter 341, SubChapter A 341.031(a)

Rqmt Prov: 2003-0031-PWS-E/O P 2.e.ii. ORDER

Description: Failed to provide 2.0 gpm per connection for service pump capacity by December 29, 2000.

Classification: Major

Citation: 5A THC Chapter 341, SubChapter A 341.031(a)

Rqmt Prov: 2000-0031-PWS-E/O P 2.e.i. ORDER

Description: Failed to provide a total storage capacity of 200 gallons per connection by December 29, 2000.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CEEDS Inv. Track. No.)

1 07/21/2003 (146938)  
2 05/22/2006 (466212)  
3 09/21/2007 (571351)

E. Written notices of violations (NOV). (CEEDS Inv. Track. No.)

1 Date: 05/24/2006 (466212)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)  
30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)  
30 TAC Chapter 290, SubChapter D 290.46(m)(1)(C)

Description: FAILURE TO PROVIDE ANNUAL INSPECTIONS OF GST'S AND PRESSURE TANKS.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(10)

Description: FAILURE TO PROVIDE INSPECTION LADDERS FOR THE THREE GST'S.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(b)

Description: Failure to provide total storage capacity of 200 gallons per connection.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)

Description: FAILURE TO PROVIDE QUARTERLY DISTRIBUTION REPORTS.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description: FAILURE TO PROVIDE 30" ROOF ACCESS OPENINGS ON THE THREE GST'S.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DAVID FENOGLIO DBA SUNSET  
WATER SYSTEM;  
RN102693579

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2007-1711-PWS -E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding David Fenoglio dba Sunset Water System ("Mr. Fenoglio") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Fenoglio, presented this agreement to the Commission.

Mr. Fenoglio understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Mr. Fenoglio agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Mr. Fenoglio.

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Mr. Fenoglio owns and operates a public water system know as Sunset Water System located at Corner of West Front Street and Cottage Grove Avenue, near Railroad Tracks, 11243 Highway 59N, Montague, Montague County, Texas (the "Facility").
2. The Facility provides water for human consumption, has approximately 152 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).

3. During an investigation conducted on August 27, 2007, a TCEQ Abilene Office investigator documented that Mr. Fenoglio:
  - a. Failed to keep on file and make available for Commission review records of annual tank inspections. Specifically, on the date of the investigation the records of the three ground storage tanks and the pressure tank were not available for review;
  - b. Failed to keep on file and make available for Commission review, copies of well completion data records. Specifically, at the time of the investigation, well completion data for Well No. 1 and No. 3. did not include a cement bonding log or other documentation adequate to assure complete sealing of the annular space between the casing and the drill hole.
  - c. Failed to provide a total storage capacity of 200 gallons per connection. Specifically, a system with 152 connections is required to provide a total storage capacity of 30,400 gallons. At the time of the investigation, the system provided a total storage capacity of 26,400 gallons a 13% deficiency.
  - d. Failed to provide 30 inch access openings on the three ground storage tanks. Specifically, at the time of the investigation it was documented that the access opening of all three ground storage tanks was less than 30 inches.
  - e. Failed to inspect the interior of the pressure tanks that are provided with an inspection port at least once every five years.
  - f. Failed to maintain a thorough and up-to-date plant operations manual for operator review and reference.
  - g. Failed to plug Well No. 2 and No. 3 or to submit test results proving that the wells are in a non-deteriorated condition. Specifically, Well No. 2 and No. 3 were not in service, but no test results had been submitted for approval to show they were not in a deteriorated condition.
4. Mr. Fenoglio received notice of the violations on or about September 26, 2007.

### CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Mr. Fenoglio is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Fenoglio failed to keep on file and make available for Commission review records of annual tank inspections. Specifically, on the date of the investigation the records of the three ground storage tanks and the pressure tank were not available for review in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and TCEQ Order Docket No. 2003-0038-PWS-E, Ordering Provision 3.e.
3. As evidenced by Finding of Fact No. 3.b., Mr. Fenoglio failed to keep on file and make available for Commission review, copies of well completion data records. Specifically, at the time of the investigation, well completion data for Well No. 1 and No. 3. did not include a cement bonding log or other documentation adequate to assure complete sealing of the annular space between the casing and the drill hole in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3) and TCEQ Order Docket No. 2003-0038-PWS-E, Ordering Provision 3.f.
4. As evidenced by Finding of Fact No. 3.c., Mr. Fenoglio failed to provide a total storage capacity of 200 gallons per connection. Specifically, a system with 152 connections is required to provide a total storage capacity of 30,400 gallons. At the time of the investigation, the system provided a total storage capacity of 26,400 gallons a 13% deficiency in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TCEQ Order Docket No. 2003-0038-PWS-E, Ordering Provision 5.b., and TEX. HEALTH & SAFETY CODE § 341.0315(c).
5. As evidenced by Finding of Fact No. 3.d., Mr. Fenoglio failed to provide 30 inch access openings on the three ground storage tanks. Specifically, at the time of the investigation it was documented that the access opening of all three ground storage tanks was less than 30 inches in violation of 30 TEX. ADMIN. CODE § 290.43(c)(2).
6. As evidenced by Finding of Fact No. 3.e., Mr. Fenoglio failed to inspect the interior of the pressure tanks that are provided with an inspection port at least once every five years in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B).
7. As evidenced by Finding of Fact No. 3.f., Mr. Fenoglio failed to maintain a thorough and up-to-date plant operations manual for operator review and reference in violation of 30 TEX. ADMIN. CODE § 290.42(1).

8. As evidenced by Finding of Fact No. 3.g., Mr. Fenoglio failed to plug Well No. 2 and No. 3 or to submit test results proving that the wells are in a non-deteriorated condition. Specifically, Well No. 2 and No. 3 were not in service, but no test results had been submitted for approval to show they were not in a deteriorated condition in violation of 30 TEX. ADMIN. CODE § 290.46(u) and TCEQ Order Docket No. 2003-0038-PWS-E, Ordering Provision 5.c.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Fenoglio for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of ten thousand two hundred ten dollars (\$10,210.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Mr. Fenoglio paid five hundred eighty-five dollars (\$585.00) of the administrative penalty. The remaining amount of nine thousand six hundred twenty-five dollars (\$9,625.00) of the administrative penalty shall be payable in 35 monthly payments of two hundred seventy-five dollars (\$275.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be remitted not later than 30 days following the due date of the previous payment. If Mr. Fenoglio fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Fenoglio to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Fenoglio to timely and satisfactorily comply with all of the terms of this Agreed Order.

### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. It is, therefore, ordered by the TCEQ that Mr. Fenoglio pay an administrative penalty as set forth in Conclusion of Law No. 10, above. The payment of this administrative penalty and Mr. Fenoglio's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: David Fenoglio dba Sunset Water System; Docket No. 2007-1711-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Mr. Fenoglio shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of the Commission Order, Mr. Fenoglio shall:
    - i. Submit a copy of annual tank inspections for the three ground storage tanks and the pressure tank, in accordance with 30 TEX. ADMIN. CODE § 290.46;
    - ii. Inspect the interior of all the pressure tanks, as required by 30 TEX. ADMIN. CODE § 290.46; and
    - iii. Compile and begin maintaining a plant operation manual, as required by 30 TEX. ADMIN. CODE § 290.42.
  - b. Within 45 days after the effective date of the Commission Order, Mr. Fenoglio shall submit written documentation, as detailed in Ordering Provision 2f, that certifies compliance with Ordering Provisions 2.a.i. through a.iii.
  - c. Within 60 days after the effective date of the Commission Order, Mr. Fenoglio shall:
    - i. Provide a 30 inch access hatch for all three ground storage tanks in accordance with American Water Works Association standards, as required by 30 TEX. ADMIN. CODE § 290.43; and
    - ii. Submit a copy of the well data for Well Nos. 1 and 3 that shows data relating to sealing information, including for pressure cementing, in the form of a cement bonding log or other documentation adequate to assure complete sealing of the annular space between the casing and the drill hole, as required by 30 TEX. ADMIN. CODE § 290.46.
  - d. Within 75 days after the effective date of the Commission Order, submit written documentation, as detailed in Ordering Provision 2.f, that certifies compliance with Ordering Provisions 2.c.i. and 2.c.ii.
  - e. Within 90 days after the effective date of the Commission Order:

- i. Provide a storage tank capacity of 200 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and
  - ii. Plug Well Nos. 2 and 3 or submit test results for approval showing that the wells are in a non-deteriorated condition, as required by 30 TEX. ADMIN. CODE § 290.46.
- f. Within 105 days after the effective date of this Order, Mr. Fenoglio shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.e.i through e.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Mr. Fenoglio shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.e. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Cliff Moore, Water Section Manager  
Texas Commission on Environmental Quality  
Abilene Regional Office  
1977 Industrial Blvd.  
Abilene, TX 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Fenoglio. Mr. Fenoglio is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility referenced in this Agreed Order.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Fenoglio shall be made in writing to the Executive Director. Extensions are not effective until Mr. Fenoglio receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Fenoglio if the Executive Director determines that Mr. Fenoglio has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Fenoglio in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Fenoglio, or three days after the date on which the Commission mails notice of the Order to Mr. Fenoglio, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

David Fenoglio dba Sunset Water System  
DOCKET NO. 2007-1711-FWS-E  
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**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

For the Commission

*[Handwritten Signature]*

For the Executive Director

6/15/2009

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of David Fenoglio, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution

*David A. Fenoglio*

Signature

6/02/2009

Date

DAVID A. FENOGLIO

Name (Printed or typed)

David Fenoglio

PRESIDENT

Title